

Appeal from a decision of the Arizona State Office, Bureau of Land Management, declaring placer mining claim null and void ab initio. A MC 44452.

Affirmed.

1. Mining Claims: Lands Subject to -- Mining Claims: Withdrawn Land
-- Withdrawals and Reservations: Generally

Mining claims are properly declared null and void ab initio when they are located on land which, on the date of location, was included in an application for withdrawal from appropriation under the public land laws, including the mining laws and the mineral leasing laws.

APPEARANCES: Louise Woodall, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Louise Woodall appeals from a decision of the Arizona State Office, Bureau of Land Management (BLM), dated April 5, 1982, declaring the Skoshi placer mining claim null and void ab initio. BLM's decision was based upon the fact that at the time of location the Skoshi claim was located on land included in an application for withdrawal for the Kofa National Wildlife Refuge. The Skoshi claim was located by appellant's predecessor in interest, Marie Vaughn, on December 10, 1975. The application for withdrawal was filed on February 19, 1974.

This application for withdrawal, A 7950, requested that the public lands in the Kofa Game Range and an additional 87,200 acres proposed to be added thereto be withdrawn from appropriation under the public land laws, including the mining laws and the mineral leasing laws. 39 FR 8640 (Mar. 6, 1974). A notice in the Federal Register, dated December 15, 1977, 42 FR 64148 (Dec. 22, 1977), states that no decision has yet been made on the withdrawal of the Refuge 1/ or the 87,200 acres proposed to be added thereto

1/ This same notice states that the Kofa Game Range has been redesignated the Kofa National Wildlife Refuge by P. L. 94-223, 90 Stat. 199 (1976).

from the operation of the public land laws, including the mining and mineral leasing laws.

[1] Regulation 43 CFR 2310.2(b) provides that public lands described in a withdrawal application filed before October 21, 1976, shall remain segregated through October 20, 1991, from settlement, sale, location or entry under the public land laws, including the mining laws, to the extent specified in the appropriate Federal Register notice. A similar regulation, 43 CFR 2091.2-5, was applied in John Boyd Parsons, 22 IBLA 328 (1975), a case involving the location of six lode claims in the Kofa Game Refuge. Therein, this Board held that the noting of the receipt of the application for withdrawal in the tract book or on the official plats maintained by BLM temporarily segregated such lands from settlement, location, sale, selection, entry, lease, and other forms of disposal under the public land laws, including the mining and mineral leasing laws. In the present case, BLM has properly declared the Skoshi claim null and void ab initio because the lands were not open to location on December 10, 1975, the date of location of the Skoshi claim.

On appeal, appellant states that on the basis of maps provided by BLM, her claim is at the edge or near the Kofa National Wildlife Refuge but not in it. Examination of the notice of location of the Skoshi claim reveals that it is in sec. 4, T. 3 N., R. 18 W. Gila and Salt River meridian. The Federal Register notices cited above show that the claim is indeed outside the boundaries of the Range, but within that 87,200 acre area proposed to be added to the Range. As such, the claim is located on lands described in the withdrawal application and, accordingly, is segregated through October 20, 1991, from location under the mining laws.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the State Office is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge